

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. The amendments to the claims are made by way of an Amendment Accompanying an RCE.

Claims 8 and 29 are being cancelled.

Claims 1, 7, 9-12, 14-20, 22, 27, 30-33 and 35-42 are being amended.

Claims 43 and 44 are being added.

This amendment adds, amends and cancels claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 4-20, 22 and 25-44 are now pending in this application.

In the final Office Action mailed August 5, 2003, claims 1, 4-15, 19, 20, 22, 25-36 and 40-42 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent No. 5,999,646 to Tamagaki in view of U.S. Patent No. 6,134,567 to Nakkiran et al.; and claims 16 and 37 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Tamagaki in view of U.S. Patent No. 6,141,443 to Nakao et al. These rejections, to the extent that they may be applied to the presently pending claims under rejection, are traversed for at least the reasons given below.

Independent claim 1 has been amended to include the features of now-canceled claim 8, and independent claim 22 has been amended to include the features of now-canceled claim 29. Independent claim 42 has also been amended to include features similar to those added to claims 1 and 22.

Contrary to the assertions made in the final Office Action, Tamagaki does not disclose or suggest the claimed second discriminating means and the claimed second processing means. For example, the claimed second

discriminating means performs discrimination of the image type in pixel unit. This feature is explained, for example, on page 35, lines 1-21 of the specification. The second processing means processes the image data based on the result discriminated by the second discriminating means.

Tamagaki does not disclose or suggest a second discriminating means for discriminating the image type of the image data in pixel unit, when the determining result is a specified result. Furthermore, Tamagaki does not disclose or suggest a second processing means for processing the image data based on the discrimination performed by the second discriminating means.

While Figures 1A, 1B and 3 of Tamagaki disclose processing of histogram data, and while column 8, lines 26-53 of Tamagaki discloses the converting of binary data into multi-level digital signals, these portions of Tamagaki do not disclose or suggest the discriminating of the image type of the image data in pixel unit, nor do they disclose or suggest the processing of the image data based on the discrimination performed by a discriminating means.

Accordingly, since neither Nakkiran et al. nor Nakao et al. rectifies the above-mentioned shortcomings of Tamagaki, claims 1, 4-8, 10-20, 22, 25-28 and 30-42 are patentable over the combined teachings of Tamagaki, Nakkiran et al., and Nakao et al.

New claims 43 and 44 have been added to recite additional features of the present invention that are believed to patentably distinguish over the cited art of record. New claim 43 recites a third discriminating means, which is not disclosed, taught or suggested by the cited art of record. New claim 44 recites an order of determinations made by the determining unit, which is not disclosed, taught or suggested by the cited art of record.

Accordingly, Applicants believe that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

November 4, 2003

Date

Phillip J. Articola
Pavan K. Agarwal
Registration No. 40,888

FOLEY & LARDNER
Customer Number: 22428
Telephone: (202) 672-5300
Facsimile: (202) 672-5399

Phillip J. Articola
Registration No. 38,819